

USDOL/OALJ Reporter

[\*Kelly v. United States Enrichment Corp.\*](#), 2003-ERA-6 (ALJ Jan. 8, 2004)

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**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 08 January 2004**

Case No. 2003-ERA-6

In the Matter of:

ELLEN KELLY,  
Complainant,

v.

UNITED STATES ENRICHMENT CORPORATION,  
Respondent.

Appearances:  
John Frith Stewart, Esq.  
On behalf of Complainant

Charles Thebaud, Esq.  
Kenneth Hirschi, Esq.  
On behalf of Respondent

Before: Thomas F. Phalen, Jr.  
Administrative Law Judge

**RECOMMENDED DECISION AND ORDER APPROVING SETTLEMENT  
AGREEMENT, ORDER DISMISSING COMPLAINT WITH PREJUDICE**

This matter arises under the employee protection provisions of the Energy Reorganization Act of 1974 ("ERA") as set forth at 42 U.S.C. § 5851 and the regulations promulgated at 29 C.F.R. Part 24.

Through an order dated September 3, 2003, a formal hearing was scheduled for November 3, 2003. However, the parties notified the undersigned on October 30, 2003 that they had reached a settlement agreement and they requested that the hearing be

cancelled. On November 3, 2003, the undersigned issued an order canceling the hearing. On December 24, 2003, the parties submitted a joint motion for approval of settlement agreement, dismissal with prejudice, and confidential treatment of settlement agreement. A copy of the settlement agreement was attached to the joint motion. The parties requested the unconditional approval of the settlement agreement, dismissal of the complaint with prejudice, and the parties also requested that the terms of the settlement agreement be kept confidential. In further support of the joint motion, the parties submitted a memorandum of points of authorities.

Regarding the terms of the settlement agreement, the parties stipulated that the terms are fair, adequate and reasonable. The parties stated that the disclosure of the terms of the settlement agreement would constitute an unwarranted invasion into the personal privacy of Complainant. Employer, with the consent of Complainant, asserted its predisclosure notification rights pursuant to 29 C.F.R. § 70.26 (2001), which provides that the business submitter of information may designate information as confidential commercial information, which entitles the business submitter to notification from the Department of Labor should the designated confidential commercial information ever become the subject of a request under the Freedom of Information Act.

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Having reviewed the settlement agreement, I find that it is a fair, adequate, and reasonable settlement of the complaint in this matter. In accordance with the request of the parties, the settlement agreement shall be placed in an envelope marked "PREDISCLOSURE NOTIFICATION MATERIALS" and maintained in accordance with 29 C.F.R. § 70.26. Therefore,

### **ORDER**

IT IS RECOMMENDED that:

- (1) the settlement agreement be, and hereby is APPROVED;
- (2) the complaint of Ellen Kelly be, and hereby is DISMISSED WITH PREJUDICE.

THOMAS F. PHALEN, JR.  
ADMINISTRATIVE LAW JUDGE

**NOTICE:** This Recommended Decision and Order will automatically become the final order of the Secretary unless, pursuant to 29 C.F.R. § 24.8, a petition for review is timely filed with the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210. Such a petition for review must be received by the Administrative Review Board within ten business days of the date of this Recommended Decision and Order, and shall

be served on all parties and on the Chief Administrative Law Judge. *See* 29 C.F.R. §§ 24.7(d) and 24.8.